

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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PLACIDO RUIZ,

Civil Action No.: 18-cv-630

Plaintiff,

-against-

STATE FARM FIRE AND CASUALTY COMPANY,

Defendant.  
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**NOTICE OF REMOVAL**

1. Defendant STATE FARM FIRE AND CASUALTY COMPANY (“Defendant”), by and through its attorneys, Rivkin Radler, LLP, hereby files this Notice of Removal, pursuant to 28 U.S.C. § 1441, of the above-captioned matter to the United States District Court for the Eastern District of New York, from the Supreme Court of the State of New York, County of Queens, where the action (“Action”) is now pending. Defendant respectfully states as follows:

**PROCEDURAL HISTORY**

2. This Action was commenced on or about January 10, 2018 by Placido Ruiz, (“Plaintiff”), in the Supreme Court of the State of New York, County of Queens, under Index No. 700448/2018, against the Defendant. Annexed hereto as Exhibit “A” is a copy of the Summons and Verified Complaint.

3. Plaintiff’s Summons and Verified Complaint indicates that the nature of this Action is for breach of contract arising out of State Farm’s denial of Plaintiff’s insurance claim for a loss to his property and its contents, located at 103-39 108<sup>th</sup> Street, Queens, New York, on or about February 1, 2017. See Compl. at ¶¶ 1, 9, 11.

4. As will be more fully set forth below, this Action is properly removed to this Court pursuant to 28 U.S.C. § 1441, because this Court has subject matter jurisdiction over this Action pursuant to 28 U.S.C. § 1332, and because Defendant has satisfied the procedural requirements for removal.

5. At the time the Action was commenced, diversity among the parties was complete. According to the complaint, at all times mentioned therein, Plaintiff was residing in the State of New York, and Defendant was and still is a citizen of the State of Illinois. See Compl. at ¶¶ 1, 3.<sup>1</sup>

#### POINT I

#### **REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT MATTER JURISDICTION BASED ON DIVERSITY OF CITIZENSHIP AMONG ALL NAMED PARTIES IN THIS ACTION**

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6. This case is subject to removal because the requirements for diversity jurisdiction are satisfied as demonstrated below.

##### **A. Diversity of Citizenship**

7. At the time this Action was filed, and as of the date of this notice, Defendant was and is currently a citizen of the State of Illinois. Defendant is an Illinois corporation with its principal place of business in the State of Illinois.

8. Upon information and belief, at the time of the commencement of this Action, and as of the date of this Notice of Removal, Plaintiff allegedly resided in New York, but was and is a citizen of the State of Texas.

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<sup>1</sup> Upon information and belief, although Plaintiff alleges to have resided at 103-39 108<sup>th</sup> Street, County of Queens, State of New York at all times mentioned in the complaint, Plaintiff was actually residing in Texas and was and is a citizen of the State of Texas.

9. Accordingly, based on the foregoing, there is complete diversity between the parties. See 28 U.S.C. § 1332(a)(1).

**B. The Amount-In-Controversy Requirement Is Satisfied**

10. As to damages, Plaintiff's Summons and Verified Complaint seeks relief in the amount of Five Hundred and Eighty Five Thousand, Seven Hundred and Two Dollars and Twenty-Seven Cents (\$585,702.27) See Ex. "A."

11. Accordingly, based on the total amount of damages alleged by Plaintiff, which are \$585,702.27, should liability be found against Defendant, Plaintiff's claims exceed the statutory jurisdictional amount.

12. Thus, Defendant has established that the amount in controversy requirement for removal has been met.

**POINT II**

**THE REMOVING DEFENDANT HAS SATISFIED THE  
PROCEDURAL REQUIREMENTS FOR REMOVAL**

13. Removal is timely under 28 U.S.C. § 1446(b), because the Plaintiff's Summons and Verified Complaint was filed on or about January 10, 2018, and is the first pleading, motion, order or other paper from which it could first be ascertained that this Action is one which is or has become removable. Although, upon information and belief, State Farm has yet to be served in the action through the New York State Department of Financial Services, State Farm first became aware of the filing on or about January 12, 2018. This Notice of Removal is filed within thirty (30) days of the first notice date.

14. Defendant will give written notice to Plaintiff (through its counsel) of the filing of this Notice of Removal, as required by 28 U.S.C. § 1446(d).

15. The Supreme Court of the State of New York, County of Queens, is located within the Eastern District of New York. Thus, venue is proper in this Court pursuant to 28 U.S.C. § 112(d), because it is the “district and division embracing the place where such action is pending.” See 28 U.S.C. § 1441(a).

16. Pursuant to 28 U.S.C. § 1441(a), Defendant need not obtain the consent of any other party to remove this action under the attendant circumstances.

17. A copy of this Notice of Removal and a Notice of Filing the Notice of Removal will be filed by Defendant with the Clerk of the Supreme Court of the State of New York, County of Queens as required by 28 U.S.C. § 1446(d). Defendant has thus satisfied the requirements for removal under 28 U.S.C. § 1446 and all applicable rules.

**WHEREFORE**, Defendant respectfully requests that this Court assume full jurisdiction over the Action herein as provided by law. Defendant intends no admission of liability by this Notice and expressly reserves all defenses, motions, and pleas, including, without limitation, objections to the sufficiency of Plaintiff’s Summons and Verified Complaint.

Dated: Uniondale, New York  
January 29, 2018

Respectfully submitted,

RIVKIN RADLER LLP  
Attorneys for Defendant  
STATE FARM FIRE AND CASUALTY  
COMPANY

By:

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